

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
GTE Telephone Operating Companies)	GTOC Transmittal No. 1190
GTOC Tariff FCC No. 1)	
)	
GTE System Telephone Companies)	GSTC Transmittal No. 271
GSTC Tariff FCC No. 1)	
)	
Long-Term Telephone Number)	
Portability Tariff Filings)	CC Docket No. 95-116

REPLY AND OPPOSITION OF GTE

GTE Service Corporation ("GTE"), pursuant to Section 1.773(b)(1) of the Commission's Rules, by its attorneys, and on behalf of its telephone operating companies,¹ hereby submits its Reply and Opposition to AT&T's Petition To Reject Or Suspend Tariffs ("Petition") as applied to GTE's tariffs filed in the above-captioned proceeding.² In calculating the proposed rates for local number portability ("LNP") end-user surcharges, GTE has diligently complied with the Federal Communication Commission's ("FCC" or "Commission") instructions as set forth in its *Third Report and*

¹ GTE Alaska Inc., GTE Arkansas Inc., GTE California Inc., GTE Florida Inc., GTE Hawaiian Telephone Company Inc., The Micronesian Telecommunications Corporation, GTE Midwest Inc., GTE North Inc., GTE Northwest Inc., GTE South Inc., GTE Southwest Inc., Contel of Minnesota, Inc., and Contel of the South, Inc.

² GTE Telephone Operating Companies, FCC Tariff No. 1, GTOC Transmittal No. 1190 and GTE System Telephone Companies, FCC Tariff No. 1, GSTC Transmittal No. 271 (collectively, "GTE tariffs").

*Order*³ and *Cost Classification Order*⁴ and has provided the Commission with detailed explanation and support for its calculations and conclusions.⁵

AT&T challenges GTE's proposed tariff on three grounds: the types of costs included, the number of years of costs included, and the treatment of capital costs. The first two objections are based on mistaken interpretations of either Commission rules or GTE's tariff and should be dismissed. The final argument, regarding overrecovery of capital costs, suggests a slight miscalculation of the monthly surcharge that does not merit rejecting or suspending GTE's tariff. If necessary, GTE would be willing to revise its tariff to incorporate AT&T's methodology.

I. GTE'S PROPOSED TARIFF IS CALCULATED BASED ON ONLY THOSE CARRIER-SPECIFIC COSTS THAT ARE DIRECTLY RELATED TO PROVIDING NUMBER PORTABILITY

AT&T's unsupported assertion that the Commission should reject GTE's tariff because it incorporates costs of "changes to [GTE's] internal systems for functions such as ordering, billing and maintenance [and] 911 systems" is simply wrong.⁶ As GTE

³ Telephone Number Portability, *Third Report and Order*, 13 FCC Rcd. 11701 (1998) ("*Third Report and Order*").

⁴ Telephone Number Portability, Cost Classification Proceeding, *Memorandum Opinion and Order*, FCC 98-2534, CC Docket No. 95-116 (rel. Dec. 14, 1998) ("*Cost Classification Order*").

⁵ See GTE Tariffs at *Description and Justification* ("D&J").

⁶ AT&T Petition to Reject or Suspend Tariffs, filed Jan. 21, 1999 ("AT&T Petition") at 4-5.

explained in detail in the "Description and Justification" accompanying its tariff filing,⁷ its inclusion of any OSS costs complies with the Commission determination that "the costs of number portability are the costs of enabling telecommunications users to keep their telephone numbers *without degradation of service* when they switch carriers."⁸

Accordingly, GTE has sought to recover only those expenses associated with OSS that enable telecommunications users to keep their telephone numbers when they switch carriers without degradation of service. Specifically, GTE included only *incremental* costs that would meet the Commission's "two-part test": those that would not be incurred "but for" the provision of number portability and are specifically incurred "for the provision of" number portability.⁹

GTE took a number of steps to ensure compliance with the restrictions on recovery of OSS costs. To clearly identify which of its costs met the two-part test, GTE determined (1) whether an end user could port a telephone number to or from GTE *without* the modification at issue, and (2) whether an end user whose serving wire center is *not* LNP-capable could benefit from the modification. Only if the response to both questions was negative would the cost of the given modification be included.¹⁰

⁷ See GTE Tariffs at D&J, 8-33.

⁸ *Third Report and Order*, ¶ 36 (emphasis added).

⁹ See *Cost Classification Order*, ¶ 23 (allowing recovery of incremental costs); ¶ 10 (setting forth the two-part test). GTE has found this Bureau order to be slightly ambiguous, and therefore is uncertain exactly how its instructions should be applied; GTE therefore has interpreted the order in a way that is consistent with the guidelines set forth in ¶¶68-77 of the *Third Report and Order*.

¹⁰ For example, GTE concluded that costs associated with compliance to NENA
(Continued...)

GTE also provided the Commission with a system-by-system description of OSS modifications that have been submitted for recovery; any expenses for changes to the OSS system that could provide other revenue opportunities for GTE or support any other product or service were *not* included. Finally, to ensure accurate identification of the incremental OSS costs, GTE managed the OSS development and enhancement related to LNP as a separate project, with separate financial tracking and reporting of costs. Only those vendor warranties and on-going operational costs that are incremental and specific to LNP were included in the costs filed with the tariff.

II. GTE'S PROPOSED SEVEN-YEAR COST CALCULATION PERIOD AND FIVE-YEAR RECOVERY PERIOD ARE CONSISTENT WITH THE COMMISSION'S REGULATIONS

AT&T's accusation that GTE "impermissibly attempt[s]" to recover LNP costs incurred over seven years and "compounds this error" by adjusting these costs to reflect the cost of its capital exposes AT&T's confusion of two issues: the number of years of costs for which carriers may recover, and the limit on the period of recovery.¹¹ Consistent with FCC requirements, GTE has proposed to recover its cost over a period of five years.¹² However, the Commission's regulations clearly permit recovery of costs

(...Continued)

standards for service provider number portability would be recoverable, but did *not* include any costs associated with GTE as a 911 provider; it included costs that enabled the correct billing to customers with ported numbers, but excluded costs that allow end users to be billed for other services.

¹¹ AT&T Petition at 6-7.

¹² GTE D&J at FCC Charts 2a and 2b; *See Third Report and Order*, ¶¶ 143-144;
(Continued...)

that accrue before the cost recovery period begins; until this period expires, eligibility for cost recovery is determined *only* by the “two-part test,” *not* by the date on which LNP costs are incurred.¹³

In order to comply with the Commission’s five-phase implementation schedule for LNP,¹⁴ GTE began to incur costs in 1997. These LNP costs would not have been incurred “but for” the provision of number portability and were specifically incurred “for the provision of” number portability.¹⁵ Accordingly, consistent with § 251(e)(2) of the Telecommunications Act of 1996¹⁶ and in compliance with the Commission’s implementing regulations, GTE included these costs in its tariff calculations. AT&T’s claim that these costs are not authorized is misplaced. The provision in the *Cost Classification Order* to which AT&T refers as support simply explains that the time over which carriers could recoup their costs (the “recovery period”) should be confined to five years.¹⁷ The goal behind the limited recovery period was not to limit the carrier’s recovery – as explained *supra*, this limit would be imposed through the two part test –

(...Continued)

Cost Classification Order, ¶ 51.

¹³ See *Cost Classification Order*, ¶¶ 10, 17.

¹⁴ See Telephone Number Portability, *First Report and Order*, 11 FCC Rcd. 8352 (1996), Appendix F; Telephone Number Portability, *First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd. 7236 (1997), Appendix E.

¹⁵ See *Cost Classification Order*, ¶ 10 (setting forth this “two-part test”).

¹⁶ 47 U.S.C. § 251(e)(2).

¹⁷ See AT&T Petition at 6; *Cost Classification Order*, ¶ 51.

but, rather, to enable the costs to be "levelized" over a duration that was sufficiently short to enable carriers to recover their costs quickly, yet long enough to keep the monthly fees moderate.¹⁸ Nowhere in the *Third Report and Order* or *Cost Classification Order* does the Commission limit carriers' recovery to only those costs incurred once the recovery period begins.

GTE's application of the 11.25% return to its unrecovered capital investment is similarly consistent with the Commission's regulations. The *Third Report and Order* and the *Cost Classification Order* both authorize carriers to adjust their investment to reflect the cost of money using the FCC-prescribed return on investment, currently 11.25%.¹⁹ Contrary to AT&T's implication, the Commission does not and should not preclude the adjustment of prior year investment for the cost of money.

III. GTE IS WILLING TO RECALCULATE ITS CAPITAL COST FACTORS IN COMPLIANCE WITH THE FCC'S ORDERS AND ADJUST THE SURCHARGE

AT&T claims that GTE "applied all of its capital cost factors against the total NPV of its claimed investment in LNP."²⁰ GTE calculated its costs in accordance with its interpretation of what the *Cost Classification Order* required. After evaluating AT&T's argument, GTE recalculated the costs of its LNP investment using AT&T's

¹⁸ See *Third Report and Order*, ¶¶ 143-144.

¹⁹ See *Third Report and Order*, ¶ 143; *Cost Classification Order*, ¶ 51.

²⁰ AT&T Petition at 11-12.

methodology.²¹ The result is a reduction of approximately \$1.6 million and a final monthly surcharge of \$0.422, approximately one cent less than that in GTE's filing.²² If the Commission deems it necessary, GTE would be willing to amend its tariff to reflect this change.

²¹ Specifically, GTE changed its amortization rate from 0.2, which reflects straight-line depreciation over a 5 year period, to 0.2641 in order to reflect the application of an 11.25 % cost of money and did not factor in the 11.25% return elsewhere in the calculations.

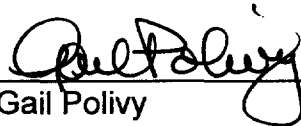
²² The calculations are reflected in revised "FCC Chart 2b," attached as Appendix A.

IV. CONCLUSION

For the foregoing reasons, and those expressed in its Description and Justification accompanying the tariffs under investigation in this proceeding, GTE urges the Commission to deny AT&T's Petition to reject or suspend GTE's tariffs.

Respectfully submitted,

GTE Service Corporation, on behalf of
its affiliated domestic telephone
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APPENDIX A

GTE
FCC CHART 2b
END-USER SURCHARGE REVENUE REQUIREMENT

	YEAR				
	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
<u>NET END-USER INVESTMENTS & EXPENSES</u>					
LNP END-USER NET TOTAL INVESTMENTS	\$49,124,312.94	\$9,448,753.62	\$5,374,780.86	\$110,016.47	\$123,052.56
LNP END-USER NET TOTAL EXPENSES	\$246,961,184.45	\$87,101,469.33	\$52,910,156.53	\$17,353,142.16	\$19,510,970.27
PRESENT WORTH FACTORS	0.90245	0.80685	0.72137	0.64496	0.57663
PRESENT WORTH INVESTMENTS	\$44,332,120.51	\$7,623,703.77	\$3,877,231.41	\$70,955.84	\$70,956.23
SUM OF PW INVESTMENTS	\$55,974,967.76				
<u>ANNUALIZED CAPITAL COSTS</u>					
AMORTIZATION	0.26241	\$14,688,262.23			
RETURN	0.00000	\$0.00			
TAXES					
Federal	0.02703	\$1,513,003.38			
State		\$0.00			
Property	0.00975	\$143,225.25			
Other		\$0.00			
TOTAL ANNUALIZED CAPITAL COSTS		\$16,344,490.86			
<u>ANNUALIZED EXPENSES</u>					
PRESENT WORTH EXPENSES		\$222,869,539.28	\$70,277,607.64	\$38,168,052.94	\$11,192,022
SUM OF PW EXPENSES		\$353,757,901.83			\$11,250,680
A/P FACTOR		0.26241			
TOTAL ANNUAL LEVELIZED EXPENSES		\$92,828,795.40			
SUM OF ANNUAL LEVELIZED COSTS		\$109,173,286.26			
<u>ACCESS LINES (From CHART 1)</u>					
ANNUAL LEVELIZED ACCESS LINES		21,560,388			
ANNUAL LEVELIZED SURCHARGE		\$5.0636			
(Annual Levelized Costs/Annual Levelized Lines)					
MONTHLY LEVELIZED SURCHARGE		\$0.4220			
(Annual Surcharge/12)					

CERTIFICATE OF SERVICE

I, Judy R. Quinlan, hereby certify that copies of the foregoing "Reply and Opposition of GTE" have been mailed by first class United States mail, postage prepaid, and via facsimile on January 27, 1999 to the parties listed below:

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